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(6)  
7/6/01  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

BARBARA E. VARNER,  
Plaintiff

v.

COMMONWEALTH OF PENNSYLVANIA,  
NINTH JUDICIAL DISTRICT,  
CUMBERLAND COUNTY,

and

CUMBERLAND COUNTY,

and

S. GARETH GRAHAM, Individually

and

JOSEPH OSENKARSKI, Individually  
Defendants

No.: 1:CV 01-0725

JURY TRIAL DEMANDED

JUDGE YVETTE KANE

FILED  
HARRISBURG

JUL 05 2001

**AMENDED MOTION TO DISMISS**

MARY E. D'ANDREA, CLERK  
Per. q/f  
DEPUTY CLERK

AND NOW COMES the County of Cumberland, s. Gareth Graham, and Joseph Osenkarski, by their attorneys, Thomas, Thomas & Hafer, LLP, who respectfully move the Court to dismiss the Complaint pursuant to Section 12(b)(6) of the Federal Rules of Civil Procedure based upon the following reasons:

(1) As a matter of law punitive damages cannot be assessed against Cumberland County for an alleged Title VII violation.

(2) If Cumberland County is, as alleged, a joint employer with the Court then it shares the Court's immunity from suit under the provisions of the Pennsylvania Human Relations Act and Count II of the Complaint must be dismissed.

(3) If Cumberland County is a joint employer with the Court, as alleged, then its alleged employees, Osenkarski and Graham, are not susceptible to suit under the PHRA in their individual capacity.

WHEREFORE, Defendants pray the Complaint be dismissed for the reasons described above.

Respectfully submitted,

THOMAS, THOMAS & HAFER, LLP

By: 

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DATE: 7-5-01

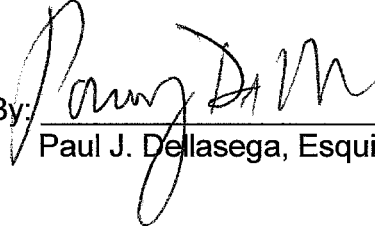
**CERTIFICATE OF SERVICE**

I, Paul J. Dellasega, Attorney for Thomas, Thomas & Hafer, LLP, hereby certify that a copy of the foregoing document was served upon the following, by enclosing a true and correct copy in an envelope addressed as follows, postage prepaid:

Howard M. Holmes, Esquire  
Administrative Office of Pennsylvania Courts  
1515 Market Street, Suite 1414  
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Camp Hill, PA 17011

**THOMAS, THOMAS & HAFER, LLP**

By:   
Paul J. Dellasega, Esquire

DATED: 7/5/01